

## **Fair Political Practices Commission**

**To:** Chairman Getman; Commissioners Downey, Knox, Scott and Swanson

**From:** Luisa Menchaca, General Counsel  
Lawrence T. Woodlock, Senior Commission Counsel

**Subject:** Pending Litigation

**Date:** November 20, 2001

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### *1. California ProLife Council PAC v. Karen Getman et al.*

On October 19, 2000, the court denied plaintiff's motion for preliminary injunction and dismissed seven of the ten counts in the complaint. Plaintiffs dismissed the Sacramento County District Attorney, and the remaining defendants – the FPPC and the Attorney General – answered what was left of the complaint. The parties next reached a stipulation for further partial dismissal, leaving only the two counts pending. It is expected that these two counts will be presented to the court for final adjudication in cross motions for summary judgment, which will be heard on January 11, 2002. Trial, if necessary, is set for June 24, 2002.

### *2. Institute of Governmental Advocates, et al. v. FPPC et al.*

The Institute of Governmental Advocates filed a Petition for Writ of Mandate with the Third District Court of Appeal, asking the court to stay enforcement of Section 85702. Added to the Act by Proposition 34, this provision bars lobbyists from making contributions to candidates and officeholders whom the lobbyists are registered to lobby. The Court of Appeal denied the Petition, and the action was refiled in federal district court, which decided the matter on cross motions for summary judgment. On September 17, District Judge Frank Damrell granted the Commission's motion and denied Plaintiffs' cross motion. The District Court entered judgement for the FPPC and plaintiffs have since filed a notice of appeal in the Ninth Circuit Court of Appeals. The Commission will be defended on appeal by the office of the Attorney General.

### *3. Danny L. Gamel et al. v. FPPC*

On September 11, 2001, the Commission adopted the proposed decision of an Administrative Law Judge assessing a penalty of \$8,000 against plaintiffs for making campaign contributions in violation of Sections 84300 – 84302 (four counts). Plaintiffs have contested this decision by moving for a writ in the Fresno County Superior Court. A hearing was originally set for November 20, 2001, but has been

taken off calendar. The parties are now negotiating a later date for the hearing. The Commission will be represented by the office of the Attorney General.

4. *Daniel Grisette, et al. v. FPPC*

On May 24, 2001, the California Supreme Court handed down a unanimous decision upholding the constitutionality of Section 84305 (sender identification in mass mailings) for the second time. The court agreed with the state's position that once the first Supreme Court decision became final, it terminated the litigation as to all causes of action in plaintiffs' complaint. Because plaintiffs thereafter did not commence a separate lawsuit, but instead improperly sought to revive the same litigation in *Grisette II*, the Court of Appeal was without authority to entertain a second appeal in the same action. On November 14, 2001, a final status conference was held in Orange County Superior Court on *Grisette I*, with a view to closing out the matter in the Superior Court.